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09/888,323	06/22/2001	E. Vincent Wood	1-15990	7211
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William J. Clemens, Esq. Fraser Clemens Martin & Miller LLC 28366 Kensington Lane Perrysburg, OH 43551-4163				
EXAMINER				
OUELLETTE, JONATHAN P				
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3629				
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06/23/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/888,323

**Applicant(s)**

WOOD ET AL.

**Examiner**

Jonathan Ouellette

**Art Unit**

3629

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2007 and 19 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 37-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. Claims 1-36, 57 and 58 have been previously cancelled; therefore, Claims 37-56 remain pending in application 09/888,323.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 37-46 and 54-56 are rejected under 35 U.S.C. 103(a) as being anticipated by**

**Robertson in view of Official Notice. [Application is a CIP of Application no.**

**09/452,126, filed on December 1, 1999. Application 09/452,126 does not contain**

**information contained in Para 0073-0103 of the US 2004/0024620 A1 Application**

**Publication; and therefore only Paragraphs 0001-0072 and 0104-0105 are**

**acknowledged the priority of 12/1/99].**

4. As per **independent Claim 37**, Robertson discloses a method for determining personality type to facilitate the delivery of personality products, advice, or services (Abstract) comprising the steps of: a. a system proprietor providing a computer system including a database of a plurality of personality related tests and questions (Para 0062, list of questions – separate questions are equivalent to individual tests; Para 0065-0072, computer enabled);

Crafting and administering multiple tests); b. a system proprietor providing remote access to the system to an administrator utilizing an administrator computer (Para 0071, Network Capability; Fig.4, host computer servers as a type of administrator); c. a system proprietor (computer system) collecting from the administrator computer (user terminal) via the remote access identifying information related to an individual user selected by the administrator (Abstract, information collected at the host computer, by questionnaire given to prospective insured – administrator makes the selection by providing the prospective insured a questionnaire); d. a system proprietor the administrator, via the remote access, selecting ones of the tests and questions in the database to be presented to the individual user (Para 0062, pick from list of questions – automated process); e. a system proprietor providing remote access to the system to a user computer identified as being operated by the individual user based upon receipt from the user computer information corresponding to the identifying information provided by the administrator computer (Para 0071, Network Capability – user identification is inherent part of connection); f. a system proprietor providing to the user computer via the remote access the tests and questions selected by the administrator and collecting data from the individual user via the remote access including results of the tests and responses to the questions and storing the data in the database (Para 0062-0064, present user with specific questions – automated process); g. a system proprietor comparing the test results and the question responses of the individual user with a predetermined set of references (testing system reference, Fig.2a-2b) to develop a set of characteristic data of the individual user and determining a personality type of the individual user from the characteristic data (Para 0064, Classifying user based on survey results); h. a system

proprietor the administrator viewing the test results and question responses of the individual user (manual step completed by administrator, has no effect on the claimed method - non-functional subject matter); and i. a system proprietor matching the personality type of the individual user with a corresponding product, advice, or service (Para 0064, correct insurance rate determined; Para 0065-0072, computer enabled process steps).

5. Robertson fails to expressly disclose wherein the administrator is a third party.
6. However, Official Notice is taken that using a third-party to administer an element in a business method was a well known form of costing savings at the time the invention was made, as it typically reduced overhead expenditures and labor costs (See KSR [127 S Ct. at 1739] “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.”).
7. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a third-party to administer the questionnaires in the method/system disclosed by Robertson, for the stated purpose of cost savings.
8. As per Claim 38, Robertson discloses wherein said step f. includes administering *at least one of* a personality test, a scenario-based test and a roll play-based test to the individual user to obtain the test results (Abstract, Para 0055-0058).
9. As per Claim 39, Robertson discloses wherein said step f. includes collecting at least one of demographic data, psychographic data, quality of life data, life style data, *behavior data*, and declared preferences data from the individual user to obtain the question responses (Para 0055-0058).

10. As per Claim 40, Robertson discloses wherein said behavior data includes *at least one of* provided behavior data and observed behavior data (Para 0055-0058).
11. As per Claim 41, Robertson discloses selecting from a plurality of questions and tests specific ones of the questions and tests to be presented to the identified user during said step c. based upon data previously collected from the identified user (user information to necessary to send survey to user).
12. As per Claim 42, Robertson discloses selecting a presentation medium for each of the questions and test to be presented to the individual user (Para 0062).
13. As per Claim 43, Robertson discloses performing said step g. by selecting one of a plurality of classification systems based upon a type of matching to be performed in said step i., each said classification system having an associated predetermined set of references (Para 0036, Robertson system is designed to be adaptable to various embodiments).
14. As per Claim 44, Robertson discloses performing step g. by selecting one of a plurality of scoring methods for scoring the results of the tests (scoring would depend on number and type of questions selected for surveying).
15. As per Claim 45, Robertson discloses performing said step i. by matching the individual user with the product, advice or service preferred by other users having a similar personality type (Claims 1-4, classification system).
16. As per Claim 46, Robertson discloses performing said step e. by obtaining context data from the individual user and matching the individual user with the product, advice or service associated with the individual user personality type and context data (Claims 1-4, classification system).

17. As per Claim 54, Robertson discloses performing said step f. by selecting an order of presentation of questions to the individual user (Para 0062, presentations of questions determined by administrator).
18. As per Claim 55, Robertson discloses performing steps c. through i. for a plurality of the individual users associates as a group (system could be used to determine company or organization insurance risk).
19. As per Claim 56, Robertson discloses wherein said step g. includes scoring the results of the tests (Para 0063-0064).
- 20. Claims 47, 48, and 51-53 are rejected under 35 U.S.C. 103(a) as being anticipated by Robertson in view of Smolen (US 5,915,243).**
21. As per Claims 47, 48, and 51-53, Robertson discloses said step g. being performed by selecting one of a plurality of classification systems based upon a type of matching to be performed in said step i., each said classification system having an associated predetermined set of references (Para 0036, Robertson system is designed to be adaptable to various embodiments); and performing said step i. by matching the individual user with the product, advice or *service* preferred by other users (insurers) having a similar personality type (Claims 1-4, best insurance for determined risk classification).
22. Robertson fails to expressly disclose wherein after performing said step g. advising the individual user of the determined personality type/ characteristic, obtaining feedback data from the individual user and performing again said step d. including the feedback data in the comparison with the test results and the question responses, and/or using the feedback to adjust the survey/survey system.

23. However, Smolen discloses a system for providing consumer surveys wherein the answers to the survey/feedback are used to provide additional surveys (C6 L59-63).
24. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included obtaining feedback data from the individual user and performing again said step d. including the feedback data in the comparison with the test results and the question responses, and/or using the feedback to adjust the survey/survey system, as disclosed by Smolen in the system disclosed by Robertson, for the advantage of providing a method for determining personality type to facilitate the delivery of personality products, advice, or services, with the ability to increase system effectiveness by constantly maintaining an effective survey question pool.
- 25. Claims 49 and 50 are rejected under 35 U.S.C. 103(a) as being anticipated by Robertson in view of Desai et al. (US 6,618,746 B2)**
26. As per Claim 49, Robertson fails to expressly disclose wherein the user is assigned a password for accessing the survey system, selected by the administrator; and wherein the survey questions are presented to the individual user, at least one of the questions being selected based upon a response of the individual user to a previous question in the series of questions.
27. However, Desai discloses a computer based survey system, which provides users passwords to obtain access to the survey system (C5 L5-8), and adapts future questions based on user responses to previous questions (C4 L5-21).
28. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included wherein the user is assigned a password for accessing



the survey system, selected by the administrator; and wherein the survey questions are presented to the individual user, at least one of the questions being selected based upon a response of the individual user to a previous question in the series of questions, as disclosed by Desai in the system disclosed by Robertson, for the advantage of providing a method for determining personality type to facilitate the delivery of personality products, advice, or services, with the ability to increase system effectiveness by securing system data retrieval, and system efficiency by providing users with only essential questions and skipping unnecessary questions.

***Response to Arguments***

29. Applicant's arguments filed 3/19/2008, regarding Claims 37-56 are found persuasive.
30. However, Applicant's arguments filed 10/17/2007, regarding Claims 37-56, have been fully considered, and are not persuasive, regarding the cited prior art. Therefore, the rejection will remain as FINAL based on the cited prior art of Robertson, Smolen, and Desai.
31. Applicant's amendment (10/17/2007) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
32. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

33. As per the Applicant's arguments, the Applicant is directed to the newly clarified rejection above.

***Conclusion***

34. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
35. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.
36. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

June 23, 2008

/Jonathan Ouellette/

Primary Examiner, Art Unit 3629